

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Richline Group, Inc.	)	
	)	
Plaintiff,	)	COMPLAINT AND JURY DEMAND
v.	)	
	)	13 Civ. 2163 (RJS)
Tacori Enterprises	)	ECF CASE
	)	
Defendant.	)	

**COMPLAINT**

Plaintiff Richline Group, Inc. ("Richline" or "Plaintiff") by its counsel, states for its Complaint as follows:

**PARTIES**

1. Richline Group Inc. is a corporation incorporated under the laws of the State of Delaware, with an office located at 1385 Broadway, New York, New York 10018.
  
2. On information and belief, Defendant Tacori Enterprises ("Tacori" or "Defendant") is a corporation incorporated under the laws of the State of California and has its principal place of business at 1736 Gardena Avenue, Glendale, California 91204.

**JURISDICTION**

3. The claims arise under the Copyright Act, 17 U.S.C. §501 *et seq.* and under the Lanham Act, 15. U.S.C. §1051 *et seq.*

4. Jurisdiction over the subject matter is conferred by 28 U.S.C. §§ 1331 (federal question), 1338 (copyright and trademark), and 2201 and 2202 (declaratory judgment).
5. Supplemental jurisdiction also exists over the related state claims under 28 U.S.C. § 1367.
6. Defendant's products are distributed to retailers in the State of New York who then offer for sale and sell them to consumers in New York State. Defendant's products are available to view on its website and for purchase through retailers located in New York such as through Michael C. Fina and other retailers. On information and belief, Defendant does business in this judicial district sufficient to subject it to the personal jurisdiction and venue of this Court.
7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and/or (d).

#### **ALLEGATIONS COMMON TO ALL CLAIMS**

8. Richline is renowned in the jewelry industry as one of the largest jewelry manufacturers and wholesale suppliers in the United States and is respected for its quality, integrity, and its line of jewelry.
9. By letter dated on or about December 21, 2012, Christie Parker Hale LLP ("Christie"), attorneys for Defendant, wrote regarding alleged infringement of Defendant's copyright and trademark registrations (the "First Letter").
10. Shortly thereafter on or about January 24, 2013, Plaintiff and Defendant engaged in correspondence regarding Defendant's claims against Plaintiff with regards to the Accused Product (as defined herein).

11. Attached hereto as Exhibit A is the product titled “Cultured Freshwater Pearl and Diamond Accent Drop Pendant in Sterling Silver and 14K Gold” (without the true colors) made and sold by Richline accused of infringing Tacori’s asserted copyright registration and trade dress rights (hereinafter, “Accused Product”).

### **FIRST CLAIM**

#### **Declaratory Judgment of Non-Infringement of Defendant’s Copyright Registrations**

12. Plaintiff repeats and realleges the foregoing allegations, as if set forth and repeated herein at length.
13. Defendant in substance accused Richline’s Accused Product of being an infringement of the following copyright registrations (the “Copyright Registrations”):

<u>Registration No.</u>	<u>Title</u>	<u>Registration Date</u>
VA 1-225-365	HT 2326 et al.	12/03/2002
VA 1-659-189	HT 2126 RD et al.	10/28/2008

14. In its letter dated on or about March 19, 2013, among its demands, Defendant specifically required that Plaintiff acknowledge the validity and enforceability of Tacori’s copyright rights.
15. The Parties have been unable to resolve their differences with respect to whether the Accused Product infringes Defendant’s copyright rights.
16. Richline has a right to make and use and to sell its Accused Product, and its Accused Product does not infringe any rights of Defendant’s copyrights.

17. The continued existence of Defendant's charges of infringement against Richline with respect to Richline's Accused Product is harmful to Richline in the marketplace, and Defendant has refused to withdraw the charge of infringement.
18. Defendant's conduct has created on the part of Richline a reasonable apprehension that Defendant will initiate such litigation.
19. This claim is asserted by Richline for a judgment declaring that the aforesaid Copyright Registrations are not infringed by Richline's Accused Product.
20. By reason of the foregoing and the communications asserted by Defendant against Plaintiff, there is a substantial and continuing justiciable controversy between Richline and Defendant as to Defendant's right to threaten or maintain suit for infringement of its aforesaid Copyright Registrations, the validity and scope of said Copyright Registrations, its conduct in enforcing said registrations, and as to whether the Accused Product made, used and sold by Richline infringes any claim or any right owned by Defendant.
21. The aforesaid Copyright Registrations of Defendant are not infringed by Richline's use of the Accused Product.

### **SECOND CLAIM**

#### **(Declaratory Judgment of Non-Infringement of Defendant's Trade Dress Rights)**

22. Plaintiff repeats and realleges the foregoing allegations, as if set forth and repeated herein at length.

23. Defendant in substance accused Richline's Accused Product of being an infringement of the following trademark registrations (the "Trademark Registration"):

<u>Registration No.</u>	<u>Date of Registration</u>
3,728,425	12/22/2009

24. Defendant further alleged that Richline's Accused Product infringed its common law trade dress rights with respect to its jewelry designs.
25. In its letter dated on or about March 19, 2013, Defendant specifically required that Plaintiff acknowledge the validity and enforceability of Defendant's trade dress rights.
26. The Parties have been unable to resolve their differences with respect to whether the Accused Product infringes Defendant's trade dress rights.
27. In this claim, Richline seeks a declaratory judgment that the trade dress rights asserted by Defendant are invalid, and/or are not infringed by Richline.
28. By reason of the communications asserted by Defendant against Richline claiming infringement of the foregoing trade dress rights, and Richline's denial of these charges, an actual case or controversy exists between Defendant and Plaintiff with respect to the validity and enforceability of the aforesaid trade dress rights and with respect to the alleged infringement thereof by Richline's use of its Accused Product.
29. Richline has a right to make and use and to sell its Accused Product, and its Accused Product does not infringe any rights of Defendant.
30. The continued existence of Defendant's charges of infringement against Richline with respect to Richline's Accused Product is harmful to Richline in

the marketplace, and Defendant has refused to withdraw the charge of infringement.

31. Defendant's conduct has created on the part of Richline a reasonable apprehension that Defendant will initiate such litigation.
32. This Claim is asserted by Richline for a judgment declaring that the aforesaid alleged trade dress and common law rights is not infringed by Richline's Accused Product.
33. The aforesaid alleged trade dress and common law rights of Defendant are not infringed by Richline's use of the Accused Product.

**WHEREFORE**, Plaintiff Richline respectfully prays for the following relief:

1. That this Court declare that Copyright Registration Nos. VA 1-225-365 and VA 1-659-189 are not infringed by Richline,
2. That Copyright Registrations VA 1-225-365 and VA 1-659-189 are invalid and/or unenforceable,
3. That this Court declare that Trademark Registration No. 3,728,425 is not infringed by Richline,
4. That Trademark Registration No. 3,728,425 is invalid and/or unenforceable,
5. That this Court declare that Defendant is without right or authority to threaten or to maintain suit against Richline or its customers for alleged infringement by its use of the Accused Product,
6. That Defendant, its agents, servants, and employees, and all those in participation with it be permanently enjoined from charging or asserting as to Richline, Richline's agents, or its customers, that they

are infringing or has infringed the copyrights, trademarks, trade dress or other alleged rights in suit,

7. That the costs of this action, including reasonable attorneys' fees and costs, be assessed against Defendant under Titles 15 and/or 17, and
8. That Richline has such other relief that this Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury.

Dated: April 2, 2013

Respectfully submitted,

**LEVISOHN, BERGER, LLP**

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Attorneys for Plaintiff

By: \_\_\_\_\_

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Jonathan Berger (JB-6448)

# **Exhibit A**

8.0 - 8.5mm Cultured Freshwater Pearl and Diamond Accent Drop Pendant in Sterling Sil... Page 1 of 1

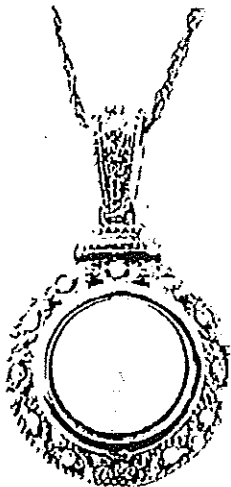
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**Item #:** 19060417 [Printable version](#)  
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This is an online exclusive item

Vintage-inspired yet perfect for every day wear, this pearl fashion pendant captivates. Crafted in sleek sterling silver and 14K gold, this style is centered with a lustrous 8.0 - 8.5mm cultured freshwater button pearl. A frame of shimmering diamond accents surrounds this lovely gemstone and also adorns the pendant base. Intricate milgrain detailing completes this regal look. Buffed to a bright luster, this pendant suspends along an 18.0-inch box chain that secures with a spring-ring clasp. This item is only available online.

PRODUCT SPECIFICATIONS	
Stone Type	Pearl
Stone Size	8.0 - 8.5mm
<u>Diamond Total Weight (CT, T.W.)</u>	Diamond Accent
<u>Pearl Type</u>	Cultured Freshwater
<u>Pearl Size</u>	8.0 - 8.5mm
Stone Setting	Glue
<u>Gold Karat</u>	14K
Length	18.00
Chain Type	Box
Clasp Type	Spring-Ring
Metal Color	Two-Tone
<u>Metal Type</u>	Sterling Silver

The gemstones pictured may have been treated or enhanced by heating or irradiation. Typographic errors are subject to correction. Merchandise enlarged to show detail and may not always be exactly as pictured. Promotions, prices, styles and availability may vary by store and online. Special offer when you join our email list. Enter email address

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